

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-44

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On March 7, 2001, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 4-2-2, 326 IAC 9-1-1, and 326 IAC 9-1-2, proposed reauthorization of 326 IAC 1-6, 326 IAC 8-7, 326 IAC 8-9, 326 IAC 8-11, 326 IAC 18-2, and repeals 326 IAC 19-1. Comments were made by the following parties:

Bernie Paul, Eli Lilly and Company (ELC)
Michael Scanlon, attorney representing Monaco Coach Corporation and also supported by Glaval Corporation, Charleston Corporation, Aker Plastics, Gulf Stream Coach, AK Industries and JayCo, Inc. (MCC)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: The board should use two criteria when evaluating old rules up for re-adoption. First, do existing regulations achieve their purpose or is it necessary because other regulations achieve the same purpose or supercede its requirements. Second, the board should establish standards where IDEM, the public, and the regulated person can determine compliance. (ELC)

Response: IDEM has evaluated existing rules and is recommending for repeal 326 IAC 19-1. Additionally, IDEM has deleted rule language 326 IAC 4-2-2(a)(7) and has reworded portions of 326 IAC 4-2 and 326 IAC 9-1 to clarify the existing rule to clearly establish what is required of the source and what is necessary to establish and determine compliance.

Comment: 326 IAC 4-2 needs updating. For many incinerators, the effects of this rule are superseded by new federal and state regulations for certain types of incinerators. If an incinerator is subject to one of the new federal standards, it should not be subject to any aspect of 326 IAC 4-2. However, IDEM proposes to exempt sources only from the particulate emission limitation in 326 IAC 4-2. The proposed exemption does not go far enough for highly regulated incinerators and imposes old requirements that have little value in today's regulatory environment. (ELC)

Response: IDEM is considering exempting sources subject to national emission standards for hazardous air pollutants (NESHAP) and solid waste combustion (Section 111(d)/129) standards from additional portions of 326 IAC 4-2 that are duplicative of these federal standards. Certain requirements are not covered by the NESHAP or solid waste combustion standards. For example, 326 IAC 4-2-2(a)(1) which requires that "incinerators shall be composed of primary and secondary chambers", should continue to apply to all incinerators, because the federal standards do not address the requirement for primary and secondary chambers. This requirement ensures proper combustion and is consistent with other states' incinerator rules.

Comment: For incinerators not subject to the new federal regulations, 326 IAC 4-2 includes several vague and open-ended requirements related to the design and operation of an incinerator that do not assure proper control of particulate emissions. 326 IAC 4-2-2(a)(4) and (5) require the incinerator to be operated and maintained in accordance with the manufacturer's specifications and recommendations. If the source has found that the system performs better under scenarios not in the manufacturer's recommendations, would the source state in its compliance certification that it is not in compliance because it is not strictly following the manufacturer's recommendations even though it is meeting its emission limits? We recommend that

the rule apply only to incinerators not subject to new state and federal requirements and that all but 326 IAC 4-2-2(a)(1), (2), and (7) be deleted. (ELC)

Response: 326 IAC 4-2 covers a wide variety of incinerators so it is difficult to establish a single set of operating parameters applicable to all of them. The NESHAPs and manufacturer's recommendations provide basic standards that are specific for each type of incinerator, however, the department is considering adding language to increase the flexibility for sources that desire alternative ways to demonstrate compliance with the emission limits.

Comment: We agree with the proposed amendment to 326 IAC 9-1 that exempts incinerators subject to the new federal and state incinerator requirements. At this time, we are not prepared to support or disagree with the proposal to require incinerators to use direct flame afterburners operating at 1300 degrees Fahrenheit or other approved technologies to reduce carbon monoxide. IDEM needs to provide more information on the impacts of requiring a temperature monitoring device to measure 1300 degrees Fahrenheit. A portable thermometer is inappropriate and instead a more sophisticated, durable, and permanently installed thermocouple that is connected to a data collection and alarm system is needed. This is more costly than \$200; IDEM should discuss all the implications of this new requirement. (ELC)

Response: The temperature requirement was intended to establish a minimum operating standard for the afterburners. However, due to the difficulty of identifying and notifying all sources that would be subject to the new requirement and the potential additional compliance costs, the department is considering removing the temperature requirement from the proposed rule and replacing it with the requirement to follow "manufacturer's recommendations" for operation.

Comment: 326 IAC 1-6-3 requires facilities to prepare preventative maintenance plans for emission control equipment, but the regulation does not specify the types of emission control equipment the rule is intended to address. Through the permitting process, IDEM requires preventative maintenance plans for equipment we believe should not be included in these. Preventative maintenance programs are intended to apply to equipment that operate with minimal operator insight and would result in an emissions increase if problems develop. This program was never intended to cover non-emitting units or systems under constant operator oversight. For these types of systems, the preventative maintenance plan requirements serve no purpose, create an additional compliance burden, and result in plans that are essentially meaningless. We are submitting additional suggested rule language to add a new subsection (c) to this section. (MCC)

Response: The department will consider further this suggestion prior to final adoption of the rule.

Comment: The specific time periods identified in 326 IAC 8-7-8(2), 326 IAC 8-7-10(b)(7), 326 IAC 8-9-6(c)(2) and (3), 326 IAC 8-9-6(d)(2) and (3), 326 IAC 8-9-6(h), 326 IAC 8-11-6(c)(3)(B)(ii)(GG), 326 IAC 8-11-9(c), 326 IAC 18-2-7(c), and 326 IAC 18-2-8(b) for submitting certain information and reports should be deleted and replaced with language stating that the information must be submitted within the time period specified in the underlying permit or approval. With the amount of information that companies are being required to collect and report through permit terms and new regulations, more time is needed to gather, enter, review, and generate the appropriate reports. This process sometimes requires two and three levels of oversight looking at thousands of data points. Under these conditions, a thirty (30) day reporting period is unreasonable and removes the flexibility to establish different time periods based on the specific needs of the company. As a result, an unnecessary burden is placed on the regulated community. By revising these regulations, IDEM and the regulated community can negotiate an appropriate time period in which to submit the information. (MCC)

Response: IDEM disagrees with removing the time frames in the rules for submitting required reports. To monitor and determine compliance on a regular and consistent basis, it is important for the department to receive information in a timely way. A change of this proportion would affect thousands of reports and would result in varying the time frames that would be inconsistent and impossible to monitor.